**FARAD CONTINUATION SHEET NO.**
**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**APPELLATE SIDE**
**NAGPUR BENCH, NAGPUR**

Second Appeal No. 597/2004

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| Appeal | District : |
| Application No. | of 200 |
| Writ petition | |

| Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. | Court's or Judge's orders |
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**CORAM : Smt. V. A. Naik, J.**
**DATED : March 28, 2007.**

Heard Shri Khapre for the appellant, and Shri Panpalia for the respondents.

The appellant is the original defendant. A suit was filed by the plaintiffs seeking a direction against the defendant for removal of encroachment and for closure of new door and window in the northern wall of his house. The trial Court, after considering the evidence tendered by the parties on record, came to the conclusion that the defendant had not made any encroachment over the site belonging to the plaintiffs and hence, the plaintiffs were not entitled to the grant of permanent injunction against the defendant. The suit filed by the plaintiffs was dismissed. In appeal preferred by the plaintiffs, the appellate Court reversed the findings recorded by the trial Court so far as the question of encroachment was concerned. However, the appellate Court confirmed the finding

of the trial Court so far as the injunction seeking closure of new door and window in the northern side wall, was concerned. The appellate Court, on re-appreciation of the evidence, came to the conclusion that the plaintiffs have proved that the projection of the defendant's lintels and balconies on the lane was illegal and unauthorized. The appellate Court recorded the reasons for arriving at the aforesaid finding in paragraph nos. 6 to 10 of the appellate Court's judgment.

The findings recorded by the appellate Court are pure findings of facts based on the appreciation of the evidence on record and hence call for no interference in this second appeal. Since no substantial question of law arises for consideration in this second appeal, same is dismissed with no order as to costs.

**JUDGE**

RMP